

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

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U.S. DISTRICT COURT
SAN JUAN, P.R.

FELIX ORTIZ SANTIAGO,

Plaintiff

v.

CIVIL 97-1485 (CCC)
(CRIMINAL 90-0370 (CCC))

UNITED STATES OF AMERICA,

Defendant

MAGISTRATE'S REPORT AND RECOMMENDATION

This matter was set for evidentiary hearing today to decide under Bonneau v. United States, 961 F.2d 17 (1st Cir. 1992), whether petitioner had asked his attorney to file a notice of appeal after sentencing. Petitioner served his federal sentence but is in custody pending trial in another federal case in New Jersey.

I recommend that judgment be issued dismissing this case without prejudice to petitioner's seeking to reopen the case once he is released from custody in New Jersey, or is otherwise placed in a position to actively participate in this case and can attend an evidentiary hearing here. A petition to reinstate the case would not be deemed as a new filing. Rather, the petition would be effective *nunc pro tunc* to the date of the original filing.

Under the provisions of Rule 510.2, Local Rules, District of Puerto Rico, any party who objects to this report and recommendation must file a written objection thereto with the Clerk of this Court within ten (10) days of the party's receipt of this report and


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CIVIL 97-1485 (CCC)

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3 recommendation. The written objections must specifically identify the portion of the
4 recommendation, or report to which objection is made and the basis for such objections.
5 Failure to comply with this rule precludes further appellate review. See Thomas v. Arn, 474
6 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111 (1986); Davet v. Maccorone, 973 F.2d
7 22, 30-31 (1st Cir. 1992); Paterson-Leitch v. Massachusetts Elec., 840 F.2d 985 (1st Cir.
8 1988); Borden v. Secretary of Health & Human Servs., 836 F.2d 4, 6 (1st Cir. 1987); Scott
9 v. Schweiker, 702 F.2d 13, 14 (1st Cir. 1983); United States v. Vega, 678 F.2d 376, 378-
10 79 (1st Cir. 1982); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1st Cir.
11 1980).

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14 At San Juan, Puerto Rico, this 28th day of September, 1999.

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18 JUSTO ARENAS
United States Magistrate Judge